

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

GRETCHEN S. STUART, M.D., et al.,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION
)	
RALPH C. LOOMIS, M.D., et al.,)	Case No. 1:11-cv-00804
)	
Defendants.)	

**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE A THIRD
AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiffs hereby move this Court for an order granting them leave to file a third amended complaint in this action to remove the Third, Fifth, and Sixth Claims for Relief contained in the Second Amended Complaint. In support of their motion, Plaintiffs allege the following:

1. Plaintiffs filed a Second Amended Complaint on March 8, 2012 (ECF No. 75), which set forth six claims for relief.
2. The proposed Third Amended Complaint is almost identical to Plaintiffs' Second Amended Complaint previously filed in this action, except for the following: (a) the removal of what were formerly the Third Claim for Relief (First and Fourteenth Amendment Rights of Patients), Fifth Claim for Relief (First Amendment Rights of Physicians with respect to Section 90-21.90(b) of North Carolina Session Law 2011-405 (House Bill 854)), and the Sixth Claim for Relief (Equal Protection Discrimination

Against Women Who Cannot Read State Materials); (b) edits to or the deletion of part or all of former paragraphs 1-2, 4, 6, 45, 48, 50, 79, 81-84, 89, and 91 which largely related to the former Third, Fifth, and Sixth Claims for Relief; (c) the addition of paragraph 73; and (d) the resultant renumbering of the former paragraphs 4 through 101 and their claims for relief to reflect those changes.

3. Rule 15(a)(2) provides that “a party may amend its pleading . . . with the opposing party’s written consent or the court’s leave.” Rule 15 requires that leave to amend a complaint be freely granted when “justice so requires.” Fed. R. Civ. P. 15(a)(2).

4. Plaintiffs’ proposed Third Amended Complaint is annexed hereto as Exhibit A.

5. The proposed Third Amended Complaint seeks to remove three claims for relief before motions for summary judgment are due.

6. Defendants have informed Plaintiffs that they consent to Plaintiffs filing this Third Amended Complaint.

7. Accordingly, Plaintiffs seek the Court’s leave to file the attached Third Amended Complaint.

WHEREFORE, Plaintiffs respectfully request that this Court issue an order granting them leave to file the proposed Third Amended Complaint.

Dated: September 25, 2012

Respectfully submitted,

/s/ Christopher Brook

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*By Special Appearance

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, 2012, I filed the foregoing PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE A THIRD AMENDED COMPLAINT electronically with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

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